IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1480 of 2007

With
FIRST APPEAL No. 1481 of 2007
With
FIRST APPEAL No. 1482 of 2007
With
FIRST APPEAL No. 1483 of 2007
With
FIRST APPEAL No. 1484 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THE SPECIAL LAND ACQUISITION OFFICER & 1 - Appellant(s)
Versus
JADIBEN ATAJI & 4 - Defendant(s)

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Appearance :
GOVERNMENT PLEADER for Appellant(s) : 1 - 2.
None for Defendant(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 19/03/2007

COMMON ORAL JUDGMENT

Admit.

2. At the request of the learned advocates for the parties, these appeals are taken up for final hearing today, itself.

3. Mr. KM Sheth learned advocate for the respondents – claimants has supplied compilation containing relevant documents, therefore, R & P is not required.

4. The lands in question are situated at village Limbadia, Taluka & District Gandhinagar. They have been acquired for public purpose, namely Narmada Canal, at the instance of the Government. The Notification under sec. 4 (1) of the Land acquisition Act, 1894 (hereinafter referred to the “Act”) was published on 26.5.1994. The declaration under sec. 6 of the Act was published on 26.2.1996 and after completion of all the formalities required under the law, the Special Land acquisition Officer declared award under sec. 11 of the Act on 26.2.1996. He determined the market value of the land at the rate of Rs. 7.50ps per square meter. Since the claimants were not satisfied with the quantum of compensation awarded to them, they made an application under sec.

17 of the Act to the Collector for reference which ultimately culminated into a Land Acquisition Reference Nos. 93/2001, 94/2001, 95/2001 and 96/2001. The references were consolidated and the Court treated Land Acquisition Reference Case No. 93/2001 as the main case. The evidence was recorded in the said case and, thereafter, the cases were decided by common judgment dated 9.9.2005. On the basis of the material placed before the reference court, it assessed the market value of the land in question at Rs. 84.40ps per square meter. Hence, these appeals.

5. Since these appeals arise from the common judgment, they are heard together and they are disposed of by this common judgment.

6. Ms. Pandey learned AGP has submitted that the Special Land Acquisition Officer after taking into consideration the relevant sale instances of the area determined the market value at Rs. 7.50ps per square meter which was just and proper. According to her, the market value determined by the Reference Court is exorbitant and it is required to be substantially reduced. In support of her contention, she has drawn my attention to the relevant portion of the oral evidence of Somaji Vihaji, the applicant, who was

examined on behalf of original claimants. She has also drawn my attention to the judgment of the Apex Court delivered in respect of the lands situated at village Limbadia itself which were acquired on earlier occasion i.e. In the year 1987 for the very purpose namely construction of Narmada Canal. In that case, notification under sec. 4 (1) of the Act was published on 13.1.1987. She has submitted that even keeping this judgment in view, the award of the Reference Court is on higher side. As against that, Mr. Sheth has supported the judgment and submitted that the determination of the market value by the Reference Court is just and proper and there is no need to disturb the same.

7. I have carefully considered the contentions as well as documents contained in the compilation furnished to this Court by Mr. Sheth. It appears that for this very purpose agricultural lands of village Limbadia were acquired earlier. In that case, notification under sec. 4(1) of the Act was published in the official Gazette on 13.1.1987. Later on, the Special Land Acquisition Officer determined the market value at Rs. 3.50 ps. Per square meter. The claimants of those lands sought reference under sec.

18 of the Act and the Reference Court enhanced the compensation to Rs. 66.50ps per square meter. The State feeling aggrieved by the rate determined by the Reference Court, approached this Court by filing First Appeals Nos. 4378/1996 to 4385/1996.This Court by its judgment dated 22.7.1997 partly allowed the appeals and reduced the market value from Rs. 66.50ps per square meter to Rs. 57.00 per square meter. Again this judgment was challenged before the Apex Court by the Government by filing Civil Appeals No. 923 to 967/1998. The Apex Court further reduced the market value from Rs. 57/- per square meter to Rs. 53/- per square meter. The claimants of those cases were awarded compensation at the rate of Rs. 53/- per square meter. In the instant case, the notification under sec. 4(1) of the act has been published on 26.5.1994 i.e. more than 7 years after the notification in the earlier case. By applying the ratio laid down by the Apex Court in various cases, the Reference Court granted increase of 10% per annum. According to it, Rs. 37.10ps per square meter were required to be taken as 70% of Rs. 53/- to arrive at market value per square meter. It, therefore, awarded Rs. 84.40ps per square meter as additional compensation over and above Rs. 7.50ps per

square meter awarded by the Special Land Acquisition Officer. That brings the total compensation to Rs. 91.90ps per square meter. Even calculating at the rate of 10% increase per annum, the rate decided by the Reference Court is slightly on higher side. It should have been 90.10ps per square meter in place of 91.90ps per square meter. Therefore, this award is required to be modified and the rate of compensation determined by the Reference Court is required to be reduced by Rs. 1.80ps per square meter. Hence, the award of the Reference Court is now modified and the rate of compensation is reduced from Rs. 91.90 to, in all, Rs. 90.10ps per square meter.

8. In the result, these appeals are partly allowed. No order as to costs.

(AKSHAY H. MEHTA, J.)

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